

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

June 21, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90035

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant contends that a federal judge took the oath of office from a person not authorized to administer that oath, and that as a result all of the judge's acts are void.

According to complainant, the subject judge's oath was administered by a senior district judge. This was ineffectual, complainant maintains, because "Oath of Office MUST be administer [sic] by a person SPECIFIED in 5 U.S.C. 2903 which is the 'Chief Judge.'" Complainant misreads that statute, for two reasons. First, it applies to members of the civil service and uniformed services, not federal judges. See 5 U.S.C. §3331. Second, §2903 provides that the oath may be sworn before any person who has authority to administer oaths under either state or federal law. Section 2903 does not even mention chief judges, let alone require all federal judges to take their oaths before chief judges exclusively.

The oath of office for a federal judge is specified by 28 U.S.C. §453. And 28 U.S.C. §459 provides that all federal judges are authorized to administer oaths. So it was entirely proper for a senior district judge to administer the oath of office to the subject judge. The complaint is dismissed because it does not allege misconduct.